IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WP(C).No. 32176 of 2007(E)

PETITIONER:

RADHAKRISHNAN NAIR,
KANOOR VEEDU, MADAMON P.O,
RANNY, PERUNAD.

BY ADV. SRI.S.SANTOSH KUMAR (PERUNAD)

RESPONDENTS:

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1. THE PATHANAMTHITTA DISTRICT CO.OPERATIVE BANK LTD, PATHANAMTHITTA PO, 689 645.
REP BY ITS GENERAL MANAGER.

2. THE EXECUTIVE OFFICER,
PATHANMTHITTA DISTRICT CO-OPERATIVE BANK,
PATHANAMTHITTA PO-689 645.

3. THE PATHANAMTHITTA DIST CO.OPERATIVE BANK, RANNY- PERUNAD BRANCH, RANNY- PERUNAD: P.O., 689 711.
REP.BY THE BRANCH MANAGER.

4. P.S.MOHANAN, S/O. SREEDHARAN,
PARACKAL HOUSE, MAMPARA PO,
RANNY- PERUNAD.689 711.

5. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
PATHANAMTHITTA-689 645.

BY ADV. SRI.P.C.SASIDHARAN
BY GOVT. PLEADER SMT. ANU SIVARAMAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.32176 of 2007

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Dated this the 7th day of November, 2007

JUDGMENT

Petitioner has approached this court seeking a mandamus directing the fifth respondent to implement Ext.P1 sanction letter and to declare that the denial or delay in implementation of Ext.P3 sanction letter is illegal and arbitrary. The further prayer is for a direction to the fifth respondent to conduct a detailed and impartial inquiry into the circumstances leading to the delay in implementing Ext.P3 and for a direction to disburse the loan amount to the petitioner as per Ext.P3.

2. The case of the petitioner in brief is as follows:

The petitioner has applied for a loan from the third respondent under the DILT Scheme, which was sanctioned as per Ext.P3. Two others had also applied for loan along with the petitioner. Petitioner and two other applicants were sureties for each other's loan. Last year also they had availed the same loan and that was repaid. Petitioner was given sanction vide Ext.P3. But loan was not disbursed. According to the petitioner the fourth respondent is on inimical terms with the

petitioner due to several reasons. The fourth respondent has no business to interfere with the functioning of the third respondent Bank. Petitioner has filed a detailed representation before the fifth respondent. Apparently the stand taken by the first respondent is that when there is a loan availed by the petitioner from another Bank and unless that amount is repaid, creditworthiness of the petitioner is under cloud and the Bank is not inclined to grant the loan.

3. The relief sought essentially is to enforce Ext.P3 sanction letter. It is sought against a Co-operative Society. The writ is sought on the basis that there is a sanction letter. The writ that is sought is a writ of mandamus. For a writ of mandamus there must be a public duty. In other words, there must be a legal right with the petitioner and there must be a legal duty with the respondent, which duty must be of a public nature. The sanctioning of the loan in favour of the petitioner may not give rise to a public duty in favour of the petitioner. At best there would be a private duty. That is the duty is essentially owed to the petitioner. I do not think that it is open to this court to interfere in such a matter. However, it is open to the petitioner to pursue any other

remedy available in law in any other appropriate forum.

Accordingly the writ petition is disposed of without prejudice to the right of the petitioner to proceed in the appropriate forum.

(K.M. JOSEPH, JUDGE)

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